

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Nathaniel Sims,

Plaintiff,

vs.

Martin Cahillane,
Cook County Jail and
Div 6 Dispensary,

Defendants.

18 C 4640

Hon. M. David Weisman

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

Defendants Martin Cahillane¹ ("Cahillane" or "Defendant"), Cook County Jail and Division 6 Dispensary (collectively "Defendants"), by their attorney KIMBERLY M. FOXX, State's Attorney of Cook County, through her Assistant State's Attorney, QUINTIN D. SAFFOLD, submits the following answer and affirmative defenses to the complaint of plaintiff Nathaniel Sims ("Plaintiff"):

1. On May 4th around 10:00 A.M. I was seeing by Doctor Martin Cahillane for a follow up after being evaluated by Doctor John Doe, over in urgent care.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 1.

2. When seeing Doctor Marty over in Division 6 Dispensary who looked at the x-ray

¹ While the caption also lists "Cook County Jail" and "Division 6 Dispensary" as defendants, in the order of December 20, 2018, the district court ruled that the sole remaining defendant in this lawsuit is Martin Cahillane. (R. 15; R. 28.) Accordingly, Cahillane submits his answer and affirmative defenses.

for my back he said that he do see mild stenosis in my back.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 2.

3. He then examination my left leg as well my right and seen that my left leg I had problems with lifted it but the right one I had no problem lifted it.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 3.

4. Doctor Marty the examination my back and then my chest what for I have no idea he then told me the best thing that he could do was send me to physical therapy.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 4.

5. On May 11th 2018 around 9:00 A.M. -9:30 A.M. I was called over to DIV 6 Dispresaire once again, I have being still in severity of pain.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 5.

6. From my lower back to my left leg that has been going numbness from day one of my accident on April 28, 2018 on the few visit to Doctor Marty.

Answer: Cahillane states that he is a physician's assistant and not a physician. In

his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 6.

7. I have told him about the numbness and the left leg and the severity of the pain in my lower back how bad it hurts me when I am standing or trying to sleep.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 7.

8. Or when I am using the washroom sitting down Doctor Marty examination me again for the second time only this time it was my chest and back have that Doctor Marty seening how hard it was for me to get up on the examination table that he had to help me once again.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 8.

9. Doctor Marty then states he would set up physical therapy for me and that was the best that he could do for me but state he would take the crutches.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 9.

10. Come the first week of June he state again that I should be called over (to) the Cermak for therapy.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 10.

11. But before he sets up my physical therapy Doctor Marty states he would see me in about two weeks this would be my third visit to Doctor Marty.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 11.

12. To see how my back in legs are doing but still and all I am putting in to Div 6 dispensary every day because am still in severity of pain as well of my leg going numbness.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12.

13. For over a month and a half I put in to go over and be seen by someone in Div 6 dispensary but was not get called over.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 13.

14. The only time they did call me over was when I start to file grievance on them in Div 6 dispensary I got nothing but the same answer from different.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14.

15. Nurse's every time when they would call me over me and Doctor Marty had like three contact visit before he finally set up my physical therapy.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 15.

16. Doctor Marty seeing that I still couldn't walk that good at all but he was still talking about taking my crutches.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 15.

17. Knowing that if he took the crutches I couldn't walk all the way for physical therapy because that is long Distance from over from Div 6 till Cermak for physical therapy.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 17.

18. Which is by urgent care on 27th California and Div 6 is by 28th and Sacramento all the way on other side of California

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 18.

19. But we being me and the c/o would be going through the tunnel of the Cook County Jail and the Doctor in urgent care said I need my crutches for long Distance walking.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 19.

20. Therefore every time that a c/o took me over there he would have to stop every minute so what they did was took me over by cart that they use for deliver the jail detainees food to them

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 20.

21. The c/o would ask me where are my crutches and I told them

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 21.

22. Even the physical therapies had asked me about the crutches and I told her that Doctor Marty had taken them from me and she said he

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 22.

23. Shouldn't have done that yet until I had getting some strength back until my leg and said she was going to give him a call

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23.

24. But I told her good luck with that one there and as well Doctor Marty again had takeing me off Ibuprofen and Methocarbamol (muscle relaxant)

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 24.

25. Putting me on Neprexn 375mg after seeing me for that third time Doctor Marty asked how I was feeling and I told him the same

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 25.

26. He again said there is still nothing he could do other then send me to therapy even though Doctor Marty knew how far I had to walk to therapy.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 26.

27. From Div 6 he said I didn't need the crutches to get to therapy

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 27.

28. The c/o had to explain to the physical therapy's that Doctor Marty had taking my crutches in that he didn't follow the urgent care's Doctor order about I need them for long Distance walking and the therapy's was wonder how was I going to make it back over there to Div 6

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks

knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 28.

29. The c/o told her they had to bring me over by cart that they use for the food to bring over to other Divison's detainees.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29.

30. From May 16, 2018 the three visit with Doctor Marty up to the time of me going for physical therapy I am still experiencing severity of pain as well as my left leg going numbness

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 30.

31. I went through three different Doctor's diagnosed #1 the Doctor over in urgent care on April 30th 2018 who said everything was normal and #2 being Doctor Marty for my follow up May 4, 2018, May 11th 2018, May 16th 2018

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 31.

32. And all Doctor Marty could tell me was the only thing he could do right now was set up for me a physical therapy

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks

knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 32.

33. But he examination all three times he checked my back where the severity of my medical problems was as well as my left leg going numbness.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 33.

34. Then you have the physical therapy who was wonder why did Doctor Marty Interference with the urgent care Doctor who had in the computer do not take crutches

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane denies the remaining allegations in paragraph 34.

35. Need for long distance walking and that was long distance to physical therapy from Div 6

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 35.

36. The physical therapy's was wonder why that Doctor Marty had taking my crutches before I started therapy. The first day of my physical therapy was June 15, 2018 at 10:00 A.M. -10:30 A.M.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 36.

37. Have been examination and going through some therapy steps with the therapy's she told me that Mr. Sims it is a chance that you Might have what they call a Degenerative Joint Disease and disc disease of the lumbar spine which means that you have a mild bulging disc in your L5 or L2

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 37.

38. Of your lower back area that mean that you might need a MRI to revealed the other two diagnosis made early by the urgent care Doctor

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 38.

39. And Doctor Marty from Div 6 Dispensiare so then she began or finish with me in my therapy to find the different because She seeing the severity of the seriousness of the pain in my back in left leg she explained to me that she would call Doctor Marty.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 39.

40. And explain to him that of the diagnosis from me going through her therapy and said that she would see me in about 2 weeks

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 40.

41. This are some of the exercise that she wanted me to do on the wing to help out til she can see if she can have a MRI

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 41.

42. That way she would know exactly was going on with my back to see if I need surgery or not again everyday from the time of my accident to being in DIV 2 Dorm 4 dispensary.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 42.

43. Til I was reclass by Sgt. May Jack for no reason at all just because of me begin on the crutches.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 43.

44. Til I was move to Div6 if over there I had to put in everyday to the dispensary which was no help

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 44.

45. The nurses there knew of my back pain and numbness of my left leg but was acting under the orders of Doctor Marty who interfere with the orders of the urgent care doctor about the long Distance walk

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane denies the remaining allegations in paragraph 45.

46. I feel that Doctor Marty of Div 6 dispensary even though he being my follow up doctor from the Urgent Care Doctor.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 46.

47. Interference with removing or taking my crutches to early in the stage even if he did set up the therapy for me

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane denies the remaining allegations in paragraph 47.

48. He examination the x-rays from the urgent care Doctor in said that he only found mild stenosis in my back

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 48.

49. He also examination my back along with my left leg the first of three visit with him and said I need to work on my leg more to get the strength back in it

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 49.

50. He took my crutches early in the stage knowingly know that I still having had the strength in my leg to make it to physical therapy.

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 50.

51. Where is that I had to be taking over there by c/o on cart's that they use to bring the food over to detainees In all the Division in the Cook County Jail

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 51.

52. Doctor Marty knew that I was in severity of serious pain but keep say that there nothing that he could do

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane denies the remaining allegations in paragraph 52.

53. He knew of me putting in everyday about my pain through my back as well the numbness of my left leg

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane denies the remaining allegations in paragraph 53.

54. I told Doctor Marty that I couldn't sleep I am having trouble sleeping because of the pain and numbness

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 54.

55. Also have trouble trying to use the washroom because I can't sit nor use it because my leg goes numbness as I am sitting down on the toilet

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 55.

56. He seeing that I had difficulties getting up on the examination table he also checked my back and leg and seeing that I couldn't get my left leg up like the right one

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks

knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 56.

57. I asked Doctor Marty for a medical evaluation and appropriate treatment.

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 57.

58. Doctor Marty removed from the ibuprofen and the methocarbarnol (muscle relaxant) 750mg prescribed by the urgent care Doctor

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 58.

59. Doctor Marty put me on nepreuxn 375mg which was a lesser pain pills

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 59.

60. He prescribed them for me for about 3-4 weeks but I wasn't getting them like I was supposed to the Div6 Dispensiare Nurse's wasn't

Answer: Cahillane states that he is a physician's assistant and not a physician. In his capacity as a physician assistant, he aided a physician who treated Plaintiff. Cahillane lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 60.

61. Bring them to me like they should have I had to keep putting in medical request slips or catch the nurse's when they come to

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 61.

62. The wing just like I was doing about me still being in serious pain which that didn't help out at all

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 62.

63. My back pain continued to bother me along with the numbness in my leg

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 63.

64. In then there was negligent in misdiagnosing in my back injury

Answer: Cahillane denies the allegations in paragraph 68.

65. When you have three different diagnosis by three different physical Doctor's

1. Urgent care Doctor John Doe
2. Doctor Marty Div6 Dispensiare
3. Physical therapy's Doctor

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 65.

66. You have three different Doctor's saying something different then the other two doctor's all of professional, Medical

Answer: Cahillane lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 66.

AFFIRMATIVE DEFENSES

Further answering Plaintiff's complaint, Defendants allege the following separate affirmative defenses against Plaintiff.

I.
42 U.S.C. §1997e(a)

1. Under Section 1997e(a) of the Prisoner Litigation Reform Act (the "PLRA"), plaintiff must exhaust his administrative remedies before filing a Section 1983 lawsuit for damages.

2. Plaintiff has not exhausted his administrative remedies as the PLRA requires. *See Dale v. Lappin*, 376 F.3d 652, 655 (7th Cir. 2004).

II.
42 U.S.C. §1997e(e)

3. Plaintiff has requested damages for physical injuries but has not specified whether he seeks compensation for mental distress.

4. Section 1997e(e) of the PLRA provides:

No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18, United States Code).

5. Plaintiff cannot show physical injury and, as a result, under Section 1997e(e) of the PLRA cannot seek damages for alleged mental distress.

III.
Qualified Immunity

6. With respect to the Plaintiff's claims, the individual defendant Martin Cahillane did not cause the deprivation of any constitutional rights of Plaintiff.

7. The conduct of Martin Cahillane was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights.

8. Accordingly, Martin Cahillane is entitled to the defense of qualified immunity.

**IV.
Failure to Mitigate**

9. To the extent it is revealed that Plaintiff failed to take reasonable measures to mitigate his alleged injuries and damages, those facts shall be presented to preclude recovery for Plaintiff.

Defendant reserves the right to amend the affirmative defenses at any point throughout the course of discovery.

**V.
Immunity from Punitive Damages**

10. To the extent Plaintiff seeks punitive damages from Cahillane in his official capacity, Cahillane asserts immunity from same.

11. First, an official capacity suit is tantamount to a claim against the government entity itself. *Guzman v. Sheahan*, 495 F.3d 852, 859 (7th Cir. 2007).

12. Second, a municipality is immune from punitive damages under 42 U.S.C. §1983. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981).

13. Thus, Defendant is immune from punitive damages.

JURY DEMAND

With regard to any issue that may be appropriately heard by a jury in this cause of action, Defendants hereby demand a jury trial.

WHEREFORE, based on the foregoing, defendant Cahillane denies that Plaintiff is entitled to any relief, including but not limited to, damages, costs and attorneys' fees. Defendants pray that this Court grant judgment in favor of the Defendant and against the Plaintiff on all counts, and further requests that this Court grant judgment in favor of the

Defendants and against the Plaintiff for costs, attorneys' fees and such other relief that this Court deems just and appropriate.

Respectfully submitted,

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